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State of Connecticut
DIVISION OF CRIMINAL JUSTICE

Testimony of the Division of Criminal Justice

H.B. No. 5521 (RAISED) An Act Concerning Child Welfare and the Juvenile Justice System and the Erasure of Juvenile Records

H.B. No. 5522 (RAISED) An Act Concerning Juvenile Matters

Joint Committee on Judiciary
March 19, 2010

The Division of Criminal Justice extends its appreciation to the members of the General Assembly, the Judicial Branch the executive branch agencies for their continuing time and effort in attempting to resolve the many issues related to the implementation of the "Raise the Age" legislation. The Division stands ready to continue to serve in this important collaborative effort, and in this context the Division respectfully offers the following observations and recommendations concerning H.B. No. 5521, *An Act Concerning Child Welfare and the Juvenile Justice System and the Erasure of Juvenile Records*, and H.B. No. 5522, *An Act Concerning Juvenile Matters.*

H.B. No. 5521

The Division opposes H.B. No. 5521 for two reasons. First, the bill would require the police to obtain a court order to place any child in a juvenile detention center, regardless of charge for which the child was arrested. Current law only requires such an order in the case of a child arrested for a charge that is not designated as a "serious juvenile offense" (SJO). Experience has shown that almost all requests for such orders are granted since the detention supervisor has the authority under § 46b-133(e) to release any child, not charged with a serious juvenile offense, to the custody of the child's parent or parents, guardian or some other suitable person and because the current law requires that there be a court hearing the next business day if the child is still in detention. The rights of detained children are adequately protected by the current statutory scheme. To require such an order for a child charged with a serious juvenile offense is nothing more than an attempt to discourage the police from placing arrested serious offenders in a detention center by making the process more burdensome and cumbersome. No law enforcement officer would just release a child charged with a serious juvenile offense simply because the process necessary to place that individual in a juvenile detention center is burdensome and cumbersome, but if they did, that would pose a threat to public safety.

Second, H.B. No. 5521 would provide for the automatic erasure of a juvenile record if certain specified conditions are met. Under current law, a child can petition to get his or her juvenile record erased if they stay out of trouble for two years (four years for a SJO conviction) after they have completed their juvenile sentence if certain specified conditions are met. This

proposal would require convicted serious juvenile offenders to continue to follow the same procedure for erasure, but it would eliminate the need for any other child to file a petition for erasure. It would place the burden on Court Operations to determine every January who is eligible for erasure and automatically erase the records of those who are eligible. The Division would question whether the Judicial Branch currently has the capability to accomplish this. It would require a statewide search of the person's juvenile records, in Connecticut as well as any other state where the person could be considered to be a juvenile and might possibly have a juvenile record, as well as the person's adult record in Connecticut, as well as any other state where the person may have been arrested. A process similar to that is done now if someone petitions for the erasure of their record. This provision would require that it be done in ***every*** case. We are not aware of any problems anyone has had getting their juvenile record erased by filing a petition as provided by the current law. If a person thinks they are eligible to have their record erased, they can file a petition to do so.

H.B. No. 5522

The Division of Criminal Justice recommends the Committee delete Section 6 of H.B. No. 5522 in its entirety. This section would allow the Escape from Custody charge only for male juveniles who escape from the Connecticut Juvenile Training School (CJTS). It would no longer apply to any other male or female who was convicted as a delinquent, committed to the Department of Children and Families (DCF) as a delinquent, placed in a facility or institution and who escaped from such placement. The only charge that would apply in such cases would be the non-delinquent Families with Service Needs (FWSN) or Youth in Crisis (YIC) charge of "runaway." This change would eliminate the option the police now have to place such a child, with the permission of a judge, in a juvenile detention center when that became necessary. The result would be that the police would be only able to return the child to the facility from which he or she escaped. In many situations, the police bring the child to the front door of the facility only to have the child run out the back door again. This revolving door process not only ties up valuable law enforcement resources but also exposes such children to the known dangers associated with a child being on the run.

Just because the police can now charge such a child with escape from custody, the police have the discretion not to do so if the child is cooperative and stays at the facility upon return. Even if the child is charged with escape, the police still have the discretion not to bring the child to a juvenile detention center. If they do choose to seek detention of such a child, since escape from custody from a non-secure facility is not a serious juvenile offense, the officer would have to obtain a court order before such child could be admitted to a detention center thereby providing for judicial review of the decision to detain a child who escapes.

The Division supports the remainder of H.B. No. 5522, sections 7 through 14. These sections embody the hard work of Judge Christine Keller and the subcommittee that worked to identify and correct the technical problems associated with the "Raise the Age" law portion of Public Act 09-7 of the September Special Session. Specifically:

- It cleans up some of the definitions in the original law;
- It clarifies some jurisdictional issues that were discovered;
- It makes some practical changes in the list of serious juvenile offenses;

- It amends P.A. 09-7, September Special Session, with respect to the secure holding of children in custody that will bring the state law back into compliance with the federal regulations thereby removing the danger of losing federal juvenile justice funds;
- It establishes a new provision that allows the adult court to transfer to the juvenile court many serious motor vehicle cases involving 16-year-olds when the judge determines that the programs and services available in the juvenile court would more appropriately address the needs of the youth and the community. The proposal also provides a means to protect the admissibility of statements made by defendants to police when those cases are transferred to the juvenile court where the rules governing the admissibility of statements are different.

The Division also would offer two technical recommendations. In sections 3, 4 and 5 of the bill, the Division would recommend the Committee consider being more specific in what is meant by the term "court officer." The Division would also recommend that the Committee apply the same change found in line 229 ([such] a) in line 518 for purposes of consistency.

Overall, sections 7 through 14 represent the collaborative effort on the part of the various agencies comprising the juvenile justice system to come up with a reasonable compromise that addresses the issues raised since the passage of the "Raise the Age" law. The Division would recommend the Committee's Joint Favorable Substitute Report to incorporate the revisions referenced herein.

Respectfully submitted,

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